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SUBJECT: Khmer Rouge Tribunal: A Day in the Trial of S-21  
Interrogation Center Head Kaing Guek Eav, edition II

REF: PHNOM PENH 395

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11. (SBU) SUMMARY: Embassy staff routinely observes the proceedings of the trial against the notorious Khmer Rouge torture center head, widely known as Duch, at the Extraordinary Chambers in the Courts of Cambodia (ECCC) (Reftel). This report summarizes the ninth week of activities inside the court at the Khmer Rouge Tribunal. For more technical accounts of the proceedings, the KRT Trial Monitor has weekly reports. Soft copies of KRT Trial Monitor reports may be downloaded from [www.csdcambodia.org](http://www.csdcambodia.org); [www.kidcambodia.org](http://www.kidcambodia.org) and at <http://socrates.berkeley.edu/~warcrime/>. END SUMMARY.

12. (SBU) Herewith are observation notes for the week of June 15-17.

Monday, June 15: Trial Chamber President Nil Nonn opened the session at 9:15 (late due to technical issues with the audio-visual system) and announced that the court had ruled that Duch's detention by the Cambodian Military Court from 1999-2007 was unlawful and a violation of his rights. The Court denied the defense's request to release Duch immediately but explained that should he be released following his trial, he would be free to seek restitution for his unlawful detention. Should he be convicted, he would receive credit for time served under Military Court detention. There was no noticeable reaction to this announcement in the audience or in the Chamber.

Judge Silvia Cartwright outlined the decisions made in a closed trial management meeting held on June 11. She said that in an effort to expedite the trial proceedings, the Chamber would assign speaking times to parties. She gave an example of witness questioning, where the prosecution would be given 30 minutes for questions, 40 minutes for the defense, and 40 minutes for all the civil party representatives combined. She suggested that the civil party representatives nominate one Cambodian and one international lawyer to represent all four civil party groups in these instances. She added that the Chamber would consider adding one day per month with no trial proceedings in order to allow more time for preparation, deliberation, drafting of submissions and opinions, and management issues. Judge Cartwright noted civil party lawyers' concerns about working conditions, lack of funding, and their availability should the trial extend beyond August. She said the Chamber had determined that the first two concerns were out of the jurisdiction of the Tribunal; in regards to the last concern regarding civil party lawyer availability, Judge Cartwright stated that if the trial extends beyond August, the Chamber would liaise with the Victims Unit to ensure continuity in the civil parties' participation.

Following the afternoon break, Alain Werner spoke on behalf of the civil parties regarding a Chamber request to reduce the number of hours required for civil party testimony. He said that the civil parties had negotiated amongst themselves to reduce their required time from 60 hours to 37 hours. He said that the civil parties would unlikely be able to reduce this time further. Judge

Cartwright replied that the Chamber would consider the civil parties' efforts and would later rule on whether 37 hours would be acceptable.

Duch testified on arrest procedures and detention conditions at S-21 for the remainder of the morning and afternoon sessions. He explained that arrests were conducted in secret at the orders of the S-21 standing committee or the upper echelons of KR leadership. When an individual was arrested, his/her spouse and children were typically detained as well. Duch said that children were usually separated from their mothers and killed immediately.

Judges Cartwright and Lavergne questioned Duch on the makeup of the prisoners at S-21, the conditions of their detention, and the degree to which Duch knew about those conditions. Judge Cartwright listed a range of nationalities reportedly detained in the prison. Duch could not confirm all of them. He spent a few minutes describing the Muslim Khmer who were detained, during which a group of Cham/Cambodian Muslim audience members visibly leaned forward to pay closer attention.

Tuesday, June 16: President Nil Nonn opened the session with an announcement that the day's hearing would address the issue of torture and torture methods at S-21 and Choeung Ek. President Nonn also made an announcement regarding time for the Prosecution, Civil Party, and Defense to submit questions, allowing 3 hours for the Prosecution, 3 hours for the Civil Party, and 4 hours for the Defense. The Prosecution appealed, saying more time was needed to address documentation. The judges denied the prosecution their request for more time, explaining that the time allocation was made specifically to expedite the trial process.

The Defense objected, saying that "Even when [one is] accused [one] is guaranteed a fair defense. This is not a challenge or a criticism of the judges' decision; however, the Defense would like

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to note its reservation against the imbalance of time allotted." [The judges allotted the Prosecution and Civil Party 3 hours each and the Defense 4 hours. The Defense felt it deserved equal hours combined, that is 3 + 3 hours of the Prosecution and the Civil Party.] Discussion ensued between the Prosecution, Civil Party, and the Defense regarding the distinct role of each party. Discussion ended when President Nonn said the chamber "will not allow anymore discussion on the matter," and announced it was time for questioning regarding S-21.

Approximately 150 people were in attendance, with 75% of the attendees Cambodian citizens (a large population of Cham Muslims, mostly men, attended the morning session) while the remaining 25% of the attendees were foreigners. All eyes were on the Accused when President Nonn asked him to "describe S-21 and elaborate on the torture methods and management of the prison." Duch detailed the four torture methods he allowed his cadres to follow, which called for: (1) Beating detainees with lashes of the whip; (2) Electrocution by hand-telephone; (3) Water treatment to nostrils [pouring water into the nostrils]; and (4) The use of plastic bags to make detainees feel as if they were suffocating. President Nonn asked the Accused if teachers and professors were tortured. At this point in time, the Accused became emotional and began to cry, stopping when the President asked him to collect himself.

During the afternoon session, attendance had dropped to approximately 50, 20 of whom were foreigners. Judge Lavergne and Judge Cartwright questioned the Accused on torture methods applied to women, children, and detainees in general. The Accused confirmed that medical experimentation took place at S-21 and that approximately 100 people had died from blood drainage, during which blood was removed from their bodies completely while they were alive - for transfusion to wounded Khmer Rouge soldiers. In addition, the Accused confirmed that there was no policy to prevent children from being tortured. "Not even children were spared," he said.

Wednesday, June 17: There were approximately 100 people in attendance, including what appeared to be a tour group of foreign tourists who left as a group one hour into the morning session. The

judges resumed their questioning regarding torture and executions at S-21 and Choeung Ek. Some of the questioning seemed to be a repeat of previous days, with Duch beginning many statements with "as I already told the court." Duch maintained he made a point to not be present at interrogations or executions, but knew there were three main areas where executions took place: 1) Takhmao psychiatric hospital 2) areas immediately surrounding S-21 and 3) Choeung Ek. When asked if he taught the execution methods, Duch replied that he "didn't need to teach crocodiles how to swim." Duch said he only visited Choeung Ek one time. He admitted to there being five mass killings in which up to 100 people were killed and buried in mass graves in order to clear "backlog" and prevent overcrowding. However, he seemed to get confused over the dates of the mass killings and the reasons behind them.

Judge Lavergne began and ended the afternoon session along the same line of questioning. When asked about the final mass killing ordered prior to the Vietnamese soldiers' arrival, Duch replied he was not given any indication that the Vietnamese were close, but thought at the time that it was another routine procedure in preparation for an influx of prisoners. He therefore followed orders to empty S-21 and send all prisoners to Choeung Ek. However, he did not think the orders included those such as the artists, mechanics, and dentists who were trusted to serve S-21. Duch said he left them behind out of haste and not mercy or clemency when the Vietnamese approached. Duch ended his testimony for the day by stating that he was accountable for the death of 12,380 individuals killed at Tuol Sleng, "more responsible than those who actually killed." He also stated he is "emotionally responsible for the millions who were killed, and will be forever."

During the testimony, Duch looked tired and seemed to be emotional during some of his responses. When responding, he looked to the cameras. He was well prepared, and easily rattled off document numbers and quickly found passages from reports submitted as evidence. The defense counsel pointed out errors in the translation twice during the day. The defense counselors also seemed frustrated by the repetitive nature of the questioning. At one point, the translator had to ask President Nonn to slow down because he was not catching all of the information. Chum Mey, one of the survivors of Tuol Sleng, was present throughout the proceedings. Neither he nor the audience visibly reacted to Duch's responses. June 18 is a Cambodian holiday, therefore the trial will resume Monday, June 22.

Rodley